

***Remarks***

This Reply should be entered after final because it places the claims in condition for allowance and/or reduces the issues for Appeal.

Reconsideration of this Application is respectfully requested.

Claims 8 and 10-26 are pending in the application, with 8, 10 and 26 being the independent claims.

Based on the following remarks, Applicant respectfully requests that the Examiner reconsider all outstanding rejections and that they be withdrawn.

***Provisional Nonstatutory Double Patenting Rejection***

The Examiner has provisionally rejected claims 1-26 under the judicially created doctrine of obviousness-type double patenting for allegedly being unpatentable over claims 1-28 of co-pending Application No. 09/339,506 and claims 40-57 and 60-64 of co-pending Application No. 09/907,902.

Applicants submitted a Terminal Disclaimer on August 11, 2005 to overcome the double patenting rejection. The filing of this Terminal Disclaimer was not an admission of the propriety of the rejection. *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991).

The Examiner objected to the Terminal Disclaimer because the Examiner alleged the signer of the Terminal Disclaimer, Donald J. Featherstone, was not of record in the instant application. However, Donald J. Featherstone was of record in the parent application, U.S. Appl. No. 09/339,506, and thus is of record in the instant application. However, in order to expedite prosecution, Applicant is filing concurrently herewith (1) a copy of an Associate Power of Attorney previously filed in U.S. Appl. No. 09/339,506 and (2) a newly executed Certificate under 37 C.F.R. 3.73(b). Thus, Applicant has now explicitly placed Donald J. Featherstone of record in the instant application. Therefore, the Examiner is now asked to reconsider and accept the Terminal Disclaimer.

Accordingly, Applicant respectfully requests the Examiner reconsider and withdraw the rejection.

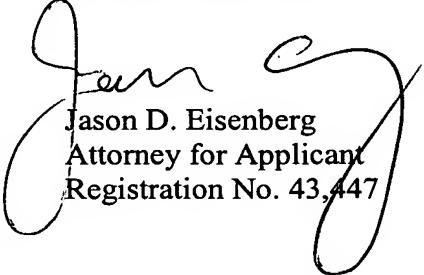
***Conclusion***

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

  
Jason D. Eisenberg  
Attorney for Applicant  
Registration No. 43,447

Date: 9/13/85  
1100 New York Avenue, N.W.  
Washington, D.C. 20005-3934  
(202) 371-2600  
SKGF\_DC1: 442852.1